



October 28, 2015

VIA CERTIFIED MAIL (NO. 7012 3050 0002 2040 6286)

The Honorable John C. Chapman
Undersecretary, Consumer Affairs and Business Regulation
Executive Office of Housing and Economic Development
One Ashburton Place, Room 2101
Boston, MA 02108

Joanne
Reg. Review
Comments
DTC/DOS for
cc: Karen
Charlie

Re: E.O. 562 regulatory reform efforts in the Commonwealth

Undersecretary Chapman:

On behalf of Cumberland Farms, Inc. and its subsidiaries (collectively, "Cumberland Farms"), I write to offer support and feedback as your office continues to implement Governor Baker's directives under Executive Order 562 ("E.O. 562").

Cumberland Farms operates at the forefront of comprehensively-regulated retail and wholesale industries, subjecting virtually every aspect of our business to government oversight. And, as the largest private company in Massachusetts, our institutional knowledge and extensive operational experience positions us well to identify opportunities for improvement within established regulatory frameworks.

To that end, we respectfully suggest the following issues for review and potential reformative action by the state agencies under your purview:

I. DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

(A) *Utility and telecommunication company cooperation and responsiveness throughout construction projects*

Far too often, after months of diligent preparation and millions of dollars in major construction, a new or renovated Cumberland Farms retail store will sit inoperable for an

extended period of time because utility and telecommunication service, poles and related equipment have not been installed, relocated or restored in a timely fashion.

The owners of that infrastructure are minimally-competitive telecommunication companies and monopolistic public utilities, both of which require heightened government regulation to replace the behavioral incentives normally supplied by a robust free market. Our experience suggests that existing rules may not adequately incentivize the regulated community to provide streamlined processes and prompt services.

This has become an unacceptable norm that depresses local economic activity and state tax revenues alike. As such, the regulatory status quo “unduly and adversely affect[s] Massachusetts citizens and customers ... [and] the competitive environment in Massachusetts” per E.O. 562 § 3, among other criteria. A revision to the governing regulations is warranted to ensure efficient performance by the regulated community—and to provide appropriate recourse for consumers of regulated services.

(B) Regulatory recodification and revision, generally

It has been suggested that a recodification of existing regulations by the Department of Telecommunications and Cable—alongside a joint rescission/revision with the Department of Public Utilities—may help clarify those respective agencies’ authorities and jurisdictions following the dissolution of the Department of Telecommunications and Energy many years ago.

Generally speaking, Cumberland Farms believes that such a process would ultimately assist consumers in obtaining the best service possible from the regulated community. It stands to reason that an up-to-date, organized and streamlined Code of Massachusetts Regulations will assist all stakeholders in understanding their rights and obligations thereunder. At the very least, it would better illuminate the precise areas where additional reform—such as that suggested in the section above—may be warranted, and from whom.

This is consistent with the Governor’s mandate that all regulations be “clear, concise and written in plain and readily understandable language” per E.O. 562 § 4, among other criteria.

II. DIVISION OF STANDARDS

(A) Repair, Calibration and Sealing of Commercial Weights and Measures Devices

Cumberland Farms retail stores rely on accurate, functional and compliant meters for dispensing fuel at the pump. Likewise, when those meters break or fall out of calibration, it is imperative to businesses and their customers that the equipment is returned to good working order as quickly as possible. Unfortunately, under the Commonwealth’s current regulatory scheme, scheduling and availability obstacles sometimes impede the timely resolution of these issues.

We propose that the Division of Standards adjust its regulations to allow for interim repair, calibration and sealing of commercial measuring devices by private third-party contractors. Under such an arrangement, contractors could be certified and registered according to state standards, paid for by the business requesting their services (including reasonable fees to state or local authorities, as appropriate) and required to periodically report all work to the Weights & Measures official with jurisdiction over the device in question. Accordingly, state and local authorities would be apprised of the contractor's work, and able to confirm it upon their statutory annual inspection.

It appears that the Division of Standards possesses the requisite authority and discretion to implement this type of reform, and would not require new legislation to do so. For a similar "less restrictive and intrusive alternative" that has worked well for our industry, per E.O. 562 § 3, we suggest that the Commonwealth look to New Hampshire as an example.

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Cumberland Farms appreciates your consideration of the above regulatory concerns. We look forward to collaborating with your office to identify potential solutions, under E.O. 562 or otherwise. In the meantime, please do not hesitate to contact me with questions or concerns.

Sincerely,



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